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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.12219 of 2021

S.Shyamala

... Petitioner

Versus

1.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

2.State Represented by Inspector of Police,
C-3, Manimangalam Police Station,
Kancheepuram District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation of case in Crime No.146 of 2017 on the file of 2nd respondent to some other agency and consequently direct the investigation agency to complete the investigation within a time frame.

For Petitioner : Mr.K.Venkateswaran

For Respondents: Mr.A.Damodaran,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to transfer the FIR in Crime No.146 of 2017 on the file of 2nd respondent to some other agency and consequently direct the investigation agency to complete the investigation within a time frame.

2.The gist of the case is that the petitioner got married with one Shankar Ganesh and started matrimonial life along with her in-laws. The petitioner's father-in-law and mother-in-law were residing in the ground floor and the petitioner and her husband were residing in the first floor. Since there was demand of dowry by in-laws of the petitioner, on 21.02.2016 the petitioner's mother lodged a complaint to the Inspector of Police, C-1 All Women Police Station, Sriperumbudur and C.S.R.No.32 of 2016 was assigned. On receipt of the complaint, the petitioner's father-in-law and mother-in-law were called for enquiry by the Inspector of Police, C-1 All Women Police Station, Sriperumbudur. Hereafter, when the petitioner was alone, the petitioner's



father-in-law used to make advances with bad intention. On 14.03.2017, at about 09.00 p.m., when the petitioner was alone, the petitioner's father-in-law and mother-in-law had forced her to give an undertaking letter that she would leave the matrimonial home on her own way will leaving the jewels and valuables. When she refused, she was abused and assaulted by them. The petitioner informed the happenings to her mother and lodged the complaint to the 2nd respondent. On receipt of the complaint, an FIR in Crime No.146 of 2017 was registered for offence under Section 323 and Section 6 of Indecent Representation of Women Act, 1986 on 15.03.2017.

3.The learned counsel for the petitioner submitted that the petitioner had sent a representation to the 2nd respondent on 07.04.2017 questioning the investigation on her complaint. Despite receipt of the same on 12.04.2017 by the 2nd respondent, no reply was sent. Hence, the petitioner had filed a petition in Crl.O.P.No.19994 of 2019 to transfer the investigation in FIR in Crime No.146 of 2017, in which this Court by order dated 26.07.2019 directed the 2nd respondent Police to complete the investigation and file a final report within a period of three months. Further, the petitioner produced the Discharge Summary issued by the Chengalpet Medical College Hospital.

4.Today, the learned Government Advocate (Crl. Side) appearing on behalf of the respondents produced the closure report in R.C's.No.1 of 2017 in Crime No.146 of 2017, dated 15.03.2017. From the closure report, it is seen that the case in Crime No.146 of 2017 closed as 'Mistake of Fact' on the same day of filing of the FIR and the closure report was not served to the petitioner.

5.From the submissions of both sides and on perusal of materials, it is seen that the petitioner had sent a representation to the 2nd respondent through registered post on 07.04.2017 questioning the action taken in Crime No.146 of 2017. Despite receipt of the same on 12.04.2017, no reply from the 2nd respondent Police. Later, the petitioner filed a petition in Crl.O.P.No.19994 of 2019 seeking to transfer the investigation in Crime No.146 of 2017 to the file of the CBCID, Guindy, Chennai. This Court, by order, dated 07.04.2017 in Crl.O.P.No.19994 of 2019 directed the 2nd respondent Police to complete the investigation and file a final report within a period of three months. From the order, nowhere whispered about the closure of the FIR in Crime No.146 of 2017 as 'Mistake of Fact' on the same day of filing of the FIR. It is further strange to see that the FIR was closed on the day when it was registered. The petitioner had lodged the complaint on 15.03.2017 at about 10.00 a.m., and it was recorded in the FIR, the complaint received on 15.03.2017 at about 10.00 a.m., for the occurrence said to have taken place on 14.03.2017. From the Discharge Summary of the Chengalpet Government Medical College, it is seen that the petitioner got admitted



on 14.03.2017 and she was taken treatment as inpatient till 22.03.2017. Thereafter from 23.03.2017 to 30.04.2017, she was taken treatment in Chennai for multiple abrasion, contusion injury all over the body and she was not in a position to move. This being the case, the closure report in R.C's.No.1 of 2017 in Crime No.146 of 2017, dated 15.03.2017 cannot be accepted. Further, the closure report was not served to the petitioner.

6.In view of the above, this Court finds lapse in the investigation conducted by the 2nd respondent Police and the right of the petitioner cannot be denied. Hence, this Court is inclined to transfer the FIR in Crime No.146 of 2017 from the file of the 2nd respondent to the file of the Inspector of Police, C-1 All Women Police Station, Sriperumbudur.

7.The 2nd respondent Police is directed to handover the Case Diary in FIR in Crime No.146 of 2017 to the file of the Inspector of Police, C-1 All Women Police Station, Sriperumbudur by 04.08.2021. After receiving the same, the Inspector of Police, C-1 All Women Police Station, Sriperumbudur to proceed with the investigation giving top priority and complete the same preferably within a period of six months.

8.With the above directions, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.
 - 2.The Inspector of Police,
C-3, Manimangalam Police Station,
Kancheepuram District.(with direction)
 - 3.The Inspector of Police,
C-1 All Women Police Station,
Sriperumbudur.
 - 4.The Public Prosecutor,
High Court, Madras.
- + 1 cc to M/s. K. Venkateswaran, Advocate 37003

CRL.O.P.No.12219 of 2021

VSN-II (CO)